

## HOUSE BILL NO. 403

INTRODUCED BY K. GILLAN, F. THOMAS, GRIMES, HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DRIVER'S LICENSE LAWS; REQUIRING MINORS TO HOLD AN INSTRUCTION PERMIT, A TRAFFIC EDUCATION LEARNER LICENSE, OR A TRAFFIC EDUCATION PERMIT FOR 6 MONTHS PRIOR TO THE ISSUANCE OF A LICENSE; RESTRICTING A DRIVER'S LICENSE ISSUED TO A MINOR FOR THE FIRST YEAR AFTER ISSUANCE; REMOVING THE TIME LIMIT IN WHICH A PERSON MUST PASS THE DRIVER'S EXAMINATION AFTER FIRST APPLYING FOR A LICENSE; AMENDING SECTIONS 61-5-105, 61-5-106, AND 61-5-107, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION.** **Section 1. Restrictions on license issued to minor.** (1) The department shall restrict a driver's license issued to a person who is under 18 years of age and who is otherwise eligible to be licensed under 61-5-105(1). The person holding the restricted license may not operate a motor vehicle:

(a) with more than ~~two~~ THREE passengers who are under 18 years of age unless they are members of the license holder's immediate family;

(b) unless all vehicle occupants are wearing seatbelts or are in proper safety restraints, EXCEPT AS PROVIDED IN SUBSECTION (4);

(c) between the hours of midnight and 5 a.m. unless:

(i) accompanied by a licensed driver who is 21 years of age or older;

(ii) driving between the person's residence and place of employment or driving for employment purposes;

(iii) driving between the person's residence and an official school-sponsored event;

(iv) driving between the person's residence and an event sponsored by a religious organization;

(v) driving for the purpose of a medical-, fire-, or law enforcement-related emergency;

(vi) driving for the sole purpose of transporting farm or ranch products, machinery, or supplies within 100 miles of a farm or ranch headquarters; or

(vii) the person is an emancipated minor.

(2) The restrictions imposed by this section apply for 1 year from the date of issuance of a license or until the person is 18 years of age, whichever occurs first.

(3) For purposes of this section, the term "driver's license" includes a motorcycle-only endorsement issued by the department and the term "motor vehicle" includes a motorcycle, except when otherwise noted.

(4) THE PROVISIONS OF SUBSECTION (1)(B) APPLY ONLY TO VEHICLES THAT ARE REQUIRED BY LAW TO BE EQUIPPED WITH SEATBELTS.

**NEW SECTION. Section 2. Operating vehicle in violation of restricted license -- fine -- NO EFFECT ON INSURANCE.** (1) It is unlawful for a person whose driver's license is restricted under [section 1] to operate a motor vehicle, including a motorcycle, in violation of the restrictions imposed under [section 1].

(2) A person who is convicted under this section shall be punished by a fine in an amount of not more than ~~\$500~~ \$100.

(3) If a person who holds a restricted license under [section 1] is convicted of a violation under this section, the department shall:

(a) upon receipt of the first conviction, mail the parent or guardian of the person a letter warning the person of the provisions of this section;

(b) upon receipt of the second conviction, suspend the person's driver's license for a period of 6 months or until the person reaches 18 years of age, whichever occurs first, and mail the parent or guardian of the person a notification of the suspension; and

(c) upon receipt of a third or subsequent conviction, suspend the person's driver's license for a period of 6 months or until the person reaches 18 years of age, whichever occurs later, and mail the parent or guardian of the person a notification of the suspension.

(4) AN INSURANCE COMPANY MAY NOT HOLD A VIOLATION OF [SECTION 1] AGAINST THE INSURED, AND THERE MAY NOT BE AN INCREASE IN PREMIUMS DUE TO A VIOLATION OF [SECTION 1].

**NEW SECTION. SECTION 3. SECONDARY OFFENSE. A PEACE OFFICER MAY NOT STOP A MOTOR VEHICLE TO DETERMINE IF THE DRIVER IS IN VIOLATION OF [SECTION 1] EXCEPT UPON REASONABLE CAUSE TO BELIEVE THAT THE DRIVER HAS VIOLATED ANOTHER TRAFFIC REGULATION OR THAT THE VEHICLE IS UNSAFE OR NOT EQUIPPED AS REQUIRED BY LAW.**

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2       **Section 4.** Section 61-5-105, MCA, is amended to read:3       **"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter  
4 to a person:5           (1) who is under ~~16~~ 18 years of age unless:6           (a) the person is at least 15 years of age, ~~and~~ has passed a driver's education course THAT IS  
7 approved by the department and the superintendent of public instruction AND IS AVAILABLE TO ANY ELIGIBLE  
8 PERSON WITHIN THE JURISDICTION OF THE SCHOOL DISTRICT OFFERING THE COURSE, and has held an instruction  
9 permit, traffic education learner license, or traffic education permit, or any combination of the three, for  
10 a minimum of 6 months prior to the issuance of a restricted license under [section 1];11           (b) the person is at least 16 years of age and has held an instruction permit for a minimum of 6  
12 months prior to the issuance of a restricted license under [section 1];13           (c) the person is at least 16 years of age and, at the time of application, surrenders a license  
14 issued to the person by another jurisdiction; or15           ~~(b)~~(d) the person is at least 13 years of age and, because of individual hardship, to be determined  
16 by the department, needs a restricted license;

17           (2) whose license or driving privilege is currently suspended or revoked in this or any state;

18           (3) who is addicted to the use of alcohol or narcotic drugs;

19           (4) who has previously been adjudged to be afflicted with or suffering from any mental disability  
20 or disease and who, at the time of application, has not been restored to competency by the methods  
21 provided by law;

22           (5) who is required by this chapter to take an examination;

23           (6) who has not deposited proof of financial responsibility when required under the provisions of  
24 chapter 6 of this title;25           (7) who has any condition characterized by lapse of consciousness or control, either temporary  
26 or prolonged, that is or may become chronic. However, the department may in its discretion issue a license  
27 to an otherwise qualified person suffering from a condition if the afflicted person's attending physician  
28 attests in writing that the person's condition has stabilized and would not be likely to interfere with that  
29 person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the  
30 person is physically qualified to operate a commercial motor vehicle under applicable state or federal

1 regulations; or

2 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely  
3 operate a motor vehicle on the highway."

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5 **Section 5.** Section 61-5-106, MCA, is amended to read:

6 **"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary**  
7 **licenses.** (1) The department may issue an instruction permit to a person satisfying the age requirements  
8 specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision  
9 examination as provided in 61-5-110. An instruction permit entitles the permittee, while in immediate  
10 possession of the permit and accompanied by a licensed driver seated beside the permittee, to drive a  
11 motor vehicle upon the public highways ~~for a period of 6 months from the date the fees required in~~  
12 ~~61-5-111 are paid.~~ An instruction permit is valid for 1 year from the date of issuance.

13 (2) The department may issue a traffic education learner license to any person who is at least  
14 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic  
15 education course approved by the department and the superintendent of public instruction. A traffic  
16 education learner license entitles the licensee to operate a motor vehicle only when accompanied by an  
17 approved instructor or licensed parent or guardian and may be restricted to specific times or areas.

18 (3) (a) An instructor of a traffic education program approved by the department and by the  
19 superintendent of public instruction may issue a traffic education permit that is effective for a school year  
20 or more restricted period to an applicant who is enrolled in a traffic education program approved by the  
21 department and who meets the age requirements specified in 20-7-503.

22 (b) When in immediate possession of the traffic education permit, the permittee may operate on  
23 a designated highway or within a designated area:

24 (i) a motor vehicle when an approved instructor is seated beside the permittee; or

25 (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an  
26 approved instructor.

27 (4) The department may in its discretion issue a temporary driver's permit to an applicant for a  
28 driver's license permitting the applicant to operate a motor vehicle while the department is completing its  
29 investigation and determination of all facts relative to the applicant's right to receive a driver's license. The  
30 temporary driver's permit must be in the permittee's immediate possession while operating a motor

1 vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

2 (5) The department may in its discretion issue a temporary commercial driver's license to an  
3 applicant permitting the applicant to operate a commercial motor vehicle while the department is  
4 completing its investigation and determination of all facts relative to the applicant's right to receive a  
5 commercial driver's license. The temporary license must be in the applicant's immediate possession while  
6 operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for  
7 good cause has been refused.

8 (6) The department may in its discretion issue a temporary medical assessment and rehabilitation  
9 driving permit as provided in 61-5-120."

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11 **Section 6.** Section 61-5-107, MCA, is amended to read:

12 **"61-5-107. Application for license, instruction permit, or motorcycle endorsement.** (1) Each  
13 application for an instruction permit, driver's license, or motorcycle endorsement must be made upon a  
14 form furnished by the department. Each application must be accompanied by the proper fee, and payment  
15 of the fee entitles the applicant to not more than three attempts to pass the ~~examination within a period~~  
16 ~~of 6 months from the date of application~~ knowledge test and the road or skills test required under  
17 61-5-110. A voter registration form for mail registration as prescribed by the secretary of state must be  
18 attached to each driver's license application. If the applicant wishes to register to vote, the department  
19 shall accept the registration and forward the form to the election administrator.

20 (2) Each application must include the full legal name, date of birth, sex, residence address of the  
21 applicant [and the applicant's social security number], must include a brief description of the applicant,  
22 and must include a statement that allows the department to determine if:

23 (a) the applicant has previously been licensed as a driver or commercial vehicle operator, and, if  
24 so, when and by what state or country;

25 (b) any commercial driver's license has ever been suspended or revoked;

26 (c) an application has ever been denied and, if so, the date of and reason for suspension,  
27 revocation, or denial;

28 (d) the applicant has a physical or mental disability, limitation, or condition that impairs or may  
29 impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor  
30 vehicle on the highway; and

(e) the applicant relies upon, or intends to rely upon, any adaptive equipment or operational restrictions to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) When application is received from an applicant previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from the previous licensing jurisdiction. The driving record may be transmitted manually or by electronic medium. When received, the driving records become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

**NEW SECTION. Section 7. Codification instruction.** [Sections 1 ~~and 2~~ THROUGH 3] are intended to be codified as an integral part of Title 61, chapter 5, and the provisions of Title 61, chapter 5, apply to [sections 1 ~~and 2~~ THROUGH 3].

**NEW SECTION. Section 8. Effective date -- applicability.** (1) [This act] is effective July 1, 2002, and applies to a person under 18 years of age who applies for a driver's license on or after [the effective date of this act].

(2) [This act] does not apply to a person under 18 years of age who, prior to July 1, 2002, had been issued an instruction permit, a traffic education learner license, or a traffic education permit.

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